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2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

9 April 2010

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Note verbale dated 8 April 2010 from the Permanent Missions of Australia and Japan to the United Nations addressed to the President of the Conference

The Permanent Missions of Australia and Japan to the United Nations present their compliments to the President of the 2010 Review Conference and have the honour to transmit herewith the text entitled "A new international consensus on action for nuclear disarmament", proposed by the International Commission on Nuclear Non-proliferation and Disarmament, analogous to the thirteen practical steps from the Final Document of the 2000 Review Conference (see annex).

The Permanent Missions of Australia and Japan to the United Nations have the further honour to advise that the Commission was launched as a joint initiative of the Governments of Australia and Japan in September 2008. The Commission is an independent enterprise, composed of 15 Commissioners worldwide, including Co-Chairs Gareth Evans and Yoriko Kawaguchi. On 15 December 2009, the Co-Chairs presented the report of the Commission to Prime Ministers Kevin Rudd and Yukio Hatoyama in Tokyo as the consensus outcome of the activities of the Commission.

The Permanent Missions of Australia and Japan to the United Nations request that the present note and its annex be circulated as a working paper of the 2010 Review Conference.

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Annex

Report of the International Commission on Nuclear Non-proliferation and Disarmament

A new international consensus on action for nuclear disarmament

Box 16-1 of the Report of the International Commission on Nuclear Non-proliferation and Disarmament

The States party to the Nuclear Non-Proliferation Review Conference in May 2010 to agree:

On the Objective: A World Free of Nuclear Weapons

1. To reaffirm the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under Article VI.

2. On the need for nuclear-armed States not party to the Nuclear Non-Proliferation Treaty to make a similar undertaking to accomplish ultimately the total elimination of their nuclear arsenals, and to acknowledge the universal and binding nature of the norms against testing, acquisition, and use or threat of use of nuclear weapons otherwise than for defence against nuclear attack.

On Key Building Blocks: Banning Testing and Limiting Fissile Material

3. On the importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty.

4. On a continuing moratorium on nuclear-weapon-test explosions or any other nuclear explosions pending entry into force of that Treaty.

5. On the need to maintain and increase support for the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization in further developing the treaty verification regime.

6. On the need to negotiate to an early conclusion in the Conference on Disarmament a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

7. On the need for all nuclear-weapon States, and other nuclear-armed states, to declare or maintain a moratorium on the production of fissile material for weapon purposes pending the conclusion of this treaty.

8. On the need for nuclear-weapon States and other nuclear-armed States to make arrangements to place fissile material designated by each of them as no longer required for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes.

The full text of *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, Report of the International Commission on Nuclear Non-proliferation and Disarmament, Co-chairs Gareth Evans and Yoriko Kawaguchi (November 2009), is available at www.icnnd.org

ICNND Secretariat: Dept of Foreign Affairs and Trade, ACT 0221, Australia **E** icnnd@dfat.gov.au **T** +61 2 6261 1111
Tokyo Office: Ministry of Foreign Affairs, Tokyo 100-8919, Japan **E** j-icnnd@mofa.go.jp **T** +81 3 5501 8221

On Specific Steps toward Nuclear Disarmament

9. On the need for nuclear-weapon States, and other nuclear-armed states, to make an early commitment to not increasing their nuclear arsenals, and take whatever steps are necessary, unilaterally, bilaterally or multilaterally, to achieve nuclear disarmament, in a way that promotes international stability and is based on the principle of undiminished security for all.

10. On the need to set as an interim objective the achievement in the medium term, as soon as possible and no later than 2025, of a world in which:

    (a) the number of all nuclear weapons, of whatever size, role or deployed status, is reduced to a small fraction of those in existence in 2010;

    (b) the doctrine of every State with nuclear weapons is firmly committed to no first use of them, on the basis that their sole remaining purpose is to deter the use of nuclear weapons by others; and

    (c) the deployment and launch-alert status of those weapons is wholly consistent with that doctrine.

11. On the particular need for leadership from, and cooperation between, those nuclear-weapon States which possess the greatest numbers of nuclear weapons in agreeing early on deep reductions, and making sustained efforts to continue such reductions for all classes of weapons.

12. On the need for all the nuclear-weapon States, and other nuclear-armed States, to make further efforts to reduce their nuclear arsenals, and act early to prepare the ground – through studies, strategic dialogues with each other, and preparatory work in the Conference on Disarmament – for a multilateral disarmament process.

13. On the need for the nuclear-weapon States, and other nuclear-armed States, to accept and announce as soon as possible a diminishing role for nuclear weapons in their security policies to minimize the risk that these weapons will ever be used and to facilitate the process of their total elimination.

14. On the need for the nuclear-weapon States, and other nuclear-armed States, to as soon as possible give unequivocal negative security assurances, endorsed by the UN Security Council, that they will not use nuclear weapons against non-nuclear-weapon States not determined by the Security Council to be in non-compliance with the Nuclear Non-Proliferation Treaty.

15. On the need for the nuclear-weapon States, and other nuclear-armed states, to take concrete measures in relation to the operational status of nuclear weapons systems to the extent possible at each stage of the disarmament process, in particular to lengthen launch decision times and to generally reduce the risk of accident or miscalculation.

On Transparency

16. On the need for increased transparency by the nuclear-weapon States, and other nuclear-armed States, with regard to nuclear weapons capabilities, in the implementation of arms control agreements and as a voluntary confidence-building measure to support further progress on nuclear disarmament.

On Accountability

17. To all States with significant nuclear programs making regular reports, to the relevant United Nations organs and within the framework of the strengthened review process for the Nuclear Non-Proliferation Treaty, on the implementation of their disarmament and non-proliferation obligations and programs including, in the case of nuclear-weapon States and other nuclear-armed States, on their nuclear arsenals, fissile material not required for military purposes, and delivery vehicles.

On Verification

18. To further study and development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon free world.

On Irreversibility

19. To the principle of irreversibility applying to nuclear disarmament, non-proliferation and other related arms control and reduction measures.

On General and Complete Disarmament

20. To reaffirm that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.

2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Working paper submitted by Algeria

Nuclear disarmament

I. Introduction

1. Nuclear weapons continue to pose the most serious threat to mankind and to the survival of civilization. The Treaty on the Non-Proliferation of Nuclear Weapons is the appropriate framework, agreed by the international community, for containing that threat.

2. The Treaty is an instrument that is essential to collective security. It is the cornerstone of the nuclear non-proliferation and disarmament regime which provides a framework for preventing the proliferation of nuclear weapons and achieving their complete elimination.

3. The Treaty includes commitments and mutual rights that rest on three fundamental, complementary and interdependent pillars: nuclear disarmament, non-proliferation and the right to the peaceful use of nuclear energy. Full implementation of all its provisions is essential to its credibility and authority. To that end, it is essential for all States parties, regardless of their status, to fulfil all their agreed obligations and all the commitments assumed within the framework of the Treaty and its review process.

4. The 2010 Review Conference takes place at a time of renewed interest in multilateral diplomacy and rebirth of the "zero option" for nuclear weapons, which views the elimination of nuclear weapons as the only way to put a lasting end to proliferation.

5. The Conference should use this impetus to strengthen, in practice, the Treaty's authority, effectiveness and relevance as the cornerstone of the nuclear non-proliferation and disarmament regime. In that regard, it is important for States parties to undertake an objective review of threats and challenges and to take practical measures capable of ensuring comprehensive, balanced implementation of all the obligations and commitments arising therefrom, including the outcomes of the 1995 and 2000 Review Conferences and the universality of the Treaty.

6. The Treaty's authority, like that of any international disarmament and non-proliferation instrument, relies on the sense of security and the climate of trust

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that it gives the parties. Thus, the Conference should address the interests and security concerns of all States parties and groups of States parties and should promote undiminished security for all. The goal, in fact, is to adopt a set of practical measures and make collective, agreed commitments as part of a comprehensive approach capable of strengthening the nuclear non-proliferation regime, making progress towards nuclear disarmament, promoting the right to the peaceful use of nuclear energy and establishing the conditions for a climate of trust and détente.

7. Any selective approach that seeks to upset the balance among the three pillars on which the Treaty rests or to discriminate among States' interests threatens to compromise the credibility and authority of the Treaty.

8. Algeria remains convinced that the promotion of international cooperation in disarmament affairs is an essential requirement for more widespread security and prosperity. Multilateralism remains the best way to reach a shared understanding of collective security in order to establish a more stable and predictable international order, an international order based not on the law of the strongest, but on the rule of law. The current international situation reminds us that no country, however powerful, can protect its territory or preserve its interests by force of arms alone.

II. Nuclear disarmament

9. Nuclear disarmament is an essential element of the Treaty and, indeed, its raison d'être. It is an obligation, not a choice, which arises from article VI of the Treaty, under which all States parties undertook to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament". This obligation was confirmed by the International Court of Justice in its July 1996 advisory opinion, which explicitly affirmed the existence of an "obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control". It is an obligation both of means and of results, as stated by the President of the Court in 1996: "there is in fact a twofold *general obligation*, opposable *erga omnes*, to negotiate in good faith and to achieve the desired result".

10. In this regard, in principle 4 of the decision on the principles and objectives for nuclear non-proliferation and disarmament, the States parties, and specifically the nuclear-weapon States, reaffirmed their commitment, as stated in article VI, to pursue in good faith negotiations on effective measures relating to nuclear disarmament. They also reaffirmed their commitment to the determined pursuit of systematic and progressive efforts to reduce nuclear weapons globally with the ultimate goal of eliminating them in the full realization of article VI.

11. Moreover, at the 2000 Conference, the States parties agreed on a number of specific measures — the 13 practical steps — as part of their systematic and progressive efforts to implement article VI of the Treaty, as well as paragraphs 3 and 4 (c) of the 1995 decision on the principles and objectives for nuclear non-proliferation and disarmament.

12. Virtually all of the disarmament commitments made at the Treaty Review Conferences have gone unmet owing to the selective interpretations and approaches adopted since 2000, which focus on proliferation risks.

13. The nuclear-weapon States have unilaterally or bilaterally reduced their nuclear arsenals. However, it must be said that these reductions still fall short of the criteria of verifiability, transparency and irreversibility. Furthermore, the effect of these reductions has been undermined by the impressive number of nuclear weapons stockpiles that continue to exist and by the development, since 2000, of nuclear doctrines that rely increasingly on nuclear weapons to ensure national security or serve the "vital interests" of the States concerned.

14. Thus, while the risk of mutual annihilation may have diminished with the end of the cold war, the nuclear threat is as grave as ever owing to the security concerns raised by the development of nuclear doctrines, the improvements in nuclear weapons, the modernization of nuclear arsenals, the increasing role of these weapons in defence policies and the development of nuclear doctrines that lower the threshold for the use of such weapons and authorize their use, even against non-nuclear-weapon States. In addition, some nuclear-weapon States are seeking to impose conditions on nuclear disarmament. This trend, which is contrary to the obligations and commitments assumed, is not conducive to non-proliferation, let alone disarmament.

15. The nuclear-weapon States have a particular responsibility to contain the nuclear threat that can ultimately be discharged only through the complete elimination of these weapons.

16. In that regard, the nuclear-weapon States will need to reaffirm their commitment to resolute action and their firm will to meet their obligations under the Treaty and, in particular, their obligation under article VI to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race and to disarmament.

17. In that context, the 2010 Conference should urge States to act on the commitments made at the 1995 Review and Extension Conference and to implement the measures taken at the 2000 Conference, including the 13 practical steps and, in particular, the unequivocal commitment of these States to achieving the complete elimination of their nuclear weapons, and therefore nuclear disarmament. It should also urge them to take other practical measures as part of their systematic and progressive efforts to reduce and eliminate nuclear weapons.

18. Algeria welcomes the conclusion of the New Strategic Arms Reduction Treaty (START) between the United States of America and the Russian Federation. It should be emphasized that such measures would have a greater impact if they stemmed from a desire to make progress towards genuine nuclear disarmament beyond the mere management of nuclear danger. As stated in annex II of the summary of the discussion of the Advisory Board on Disarmament Matters on specific measures that would significantly reduce the risk of nuclear war, "all other attempts to reduce nuclear dangers by deterrence, defence, non-proliferation, physical security and technical controls are attempts at managing, but not eliminating, nuclear dangers" (A/56/400 of 24 September 2001).

19. Thus, the Conference should agree on a plan of action that would include joint measures designed to halt the arms race, reduce nuclear danger and create a climate of trust, and reduce nuclear arsenals in order to bring about the total elimination of nuclear weapons.

20. In taking measures to halt the nuclear arms race, the parties should agree to make the necessary efforts to establish a ban on developing new types of nuclear weapons and producing new nuclear weapons systems. Measures to be taken in this context include the entry into force of the Comprehensive Nuclear-Test-Ban Treaty; the conclusion of a multilateral internationally verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, taking into account nuclear non-proliferation and disarmament; the imposition of a ban on developing new weapons or manufacturing new nuclear weapons systems; and the submission of nuclear-weapons plants to a verification regime.

21. The total elimination of nuclear weapons is the only effective guarantee against the danger they pose. Pending the achievement of this goal, States parties must take measures to create a climate conducive to promoting détente and trust, fostering non-proliferation and facilitating disarmament. To that end, nuclear-weapon States should review their nuclear doctrine with a view to reducing and eliminating the role of nuclear weapons in their defence and security strategies.

22. In that context, nuclear-weapon States should reduce the role of nuclear weapons in defence policies, provide security assurances to non-nuclear-weapon States against the use or threat of use of nuclear weapons, de-alert nuclear weapons and provide for measures to ensure transparency, irreversibility and verification in the disarmament process.

23. Nuclear-weapon States should undertake to progressively reduce the number of nuclear weapons they possess and ultimately eliminate them completely in accordance with legal instruments upholding the criteria of transparency, irreversibility and verification in order to give effect to the principle of "strict and effective international control".

24. In that connection, the Conference should recommend the establishment in the Conference on Disarmament of a subsidiary body to deal with this question and to consider the possibility of negotiating a specific timetable that would help bring about the total elimination of nuclear weapons, including a treaty imposing a total ban on nuclear weapons.

III. Proposals and recommendations

Based on the provisions of the Treaty on the Non-Proliferation of Nuclear Weapons, in particular article VI thereof, and the resolutions and decisions of the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference, including the 13 practical steps on nuclear disarmament, Algeria is submitting the following recommendations for consideration by the Review Conference:

Principles and objectives of the Treaty

Recommendation 1

Reaffirm that the Non-Proliferation Treaty is the cornerstone of the nuclear non-proliferation and disarmament regime and provides a framework for preventing the proliferation of nuclear weapons and achieving their complete elimination.

Recommendation 2

Reaffirm that the Treaty includes commitments and mutual rights that rest on three fundamental, complementary and mutually reinforcing pillars: nuclear disarmament, non-proliferation and the right to the peaceful use of nuclear energy.

Recommendation 3

Stress that balanced and full implementation of all the provisions of the Treaty is essential to its credibility and authority. To that end, it is essential for all States parties, regardless of their status, to fulfil all their agreed obligations and all the commitments assumed within the framework of the Treaty and the Review Conferences.

Recommendation 4

Reaffirm the need to achieve balanced results in respect of the three pillars of the Treaty and take practical measures capable of ensuring full compliance with all the obligations and commitments arising therefrom, including the outcomes of the 1995 and 2000 Review Conferences and the universality of the Treaty.

Cessation of the arms race and disarmament

Recommendation 5

Reaffirm the responsibility of nuclear-weapon States to take action with a view to fulfilling their obligations under the Treaty and, in particular, under article VI, to pursue negotiations in good faith on effective measures for the cessation of the nuclear arms race and nuclear disarmament.

Recommendation 6

Reaffirm the validity of the commitments undertaken at the 1995 Review and Extension Conference and the measures adopted at the 2000 Review Conference, including the 13 practical steps, in particular, an unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals, leading to nuclear disarmament, and urge nuclear-weapon States to fulfil them effectively.

Recommendation 7

Urge nuclear-weapon States to provide for other practical measures within the framework of systematic and progressive efforts to reduce and eliminate nuclear weapons.

Recommendation 8

Emphasize the multilateral approach to the issue of nuclear disarmament. The Conference on Disarmament should be requested to establish, as part of a programme of work to be agreed by Member States, a subsidiary body that will consider such disarmament.

Recommendation 9

Reaffirm the need to open negotiations over a non-discriminatory, multilateral and internationally verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, pursuant to report CD/1299 and the mandate that it contains. To that end, the Conference on Disarmament should be requested to put in place, as part of a programme of work to be agreed by Member States, a subsidiary body that will initiate negotiations over that treaty.

Recommendation 10

The urgency of the entry into force of the Comprehensive Nuclear-Test-Ban Treaty should be underlined, and those Annex 2 States that have not yet ratified the Treaty should be called upon to do so.

Recommendation 11

Emphasize the importance of prohibiting the development of new nuclear weapons or the production of new nuclear-weapon systems, in conformity with article VI of the Treaty; all nuclear-weapon States should be called upon to take measures to that end.

Recommendation 12

Call upon nuclear-weapon States to make progressive reductions in the number of the nuclear weapons they possess, with a view to the eventual complete elimination of such weapons, in the context of relevant legal instruments.

Reduction of nuclear danger and creation of a climate of trust

Recommendation 13

Underline the importance of the revision by nuclear-weapon States of their doctrines of nuclear deterrence, with a view to creating a climate of trust between States parties that would support the non-proliferation regime and promote nuclear disarmament.

Recommendation 14

Call upon nuclear-weapon States to moderate the role of nuclear arms in their security policies by reducing, inter alia, the operational status of nuclear weapons and removing such weapons from high-alert status.

Recommendation 15

Reaffirm the importance of security guarantees whereby non-nuclear-weapon States are assured against the use or threat of use of nuclear weapons.

Recommendation 16

Call upon nuclear-weapon States to reaffirm undertakings in respect of security guarantees for non-nuclear-weapon States against the use of nuclear weapons, and urge States parties to put in place the conditions necessary for the conclusion of a legally binding international instrument whereby nuclear-weapon

States undertake, in all circumstances and whatever the conditions, not to use or threaten to use nuclear arms against non-nuclear-weapon States.

Recommendation 17

Reaffirm the importance of the principles of irreversibility, transparency and the verification of nuclear disarmament, in order to create a climate of trust between States parties and give effect to the principle of strict and effective international control. Nuclear-weapon States should be called upon to adhere to those principles in respect of the disarmament measures that they undertake.

Recommendation 18

Reiterate the importance of reporting to States parties on implementation of article VI and paragraph 4 (c) of the 1995 Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament. Nuclear-weapon States should be called upon to submit reports on that matter.